

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DENNIS L. JARZOMKOWSKIE and DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE, HOLLOWMAN AIR FORCE BASE, NM

*Docket No. 00-913; Submitted on the Record;
Issued August 7, 2001*

DECISION and ORDER

Before DAVID S. GERSON, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether the Office of Workers' Compensation Programs abused its discretion in denying appellant's requests for reimbursement of medical treatment expenses.

The Office accepted appellant's claim for actinic injury to his face, forearms and hands.

By letter dated June 30, 1999, appellant requested reimbursement for \$1,393.41 for expenses related to medical treatment for his accepted condition, including \$284.18 for prescriptions, \$10.45 for telephone calls, \$16.36 for fax service, \$5.96 for special delivery by certified mail and \$1,076.46 for miscellaneous. Appellant explained that the latter amount was for his daughter who drove him to his medical appointments from May 23 through 25, 1999 and from June 20 through 22, 1999 from Alamo, New Mexico to Phoenix, Arizona and back. Appellant claimed 120.78 hours at \$7.00 an hour, totaling \$845.46. Car maintenance on June 22, 1999 cost \$15.00. The daughter's meal expenses at \$36.00 a day for six days totaled \$216.00. The total cost for her driving time, \$845.46, car maintenance, \$15.00 and meals, \$216.00, equaled \$1,076.46.

In a June 28, 1999 travel voucher for May 23 through 25, 1999 and June 20 through 22, 1999, appellant requested a total reimbursement of \$1,280.52. This amount represented \$803.52 for mileage (representing totals of \$156.25, \$165.85, 158.41 and \$166.78), total costs of food and lodging, \$465.00 and other, \$12.00 (\$2.00 per day).

In a letter dated June 30, 1999, the Office stated that appellant's travel voucher had been reduced to \$1,104.28 for actual travel expenses including meals and lodging at the per diem rate for Phoenix, Arizona and 31 cents a mile for mileage. The Office advised that reimbursement for telephone calls, postage or fax service was not allowed. Further, there was no medical evidence of record that appellant was unable to drive as a result of his skin condition. The Office added that attendant allowances are paid only if appellant is unable to drive or take care of himself as a result of the accepted work-related conditions.

By letter dated August 3, 1999, appellant requested an audit of his submitted expenses and an explanation of the Office's reductions.

By letter dated August 11, 1999, the Office explained that the total amount for mileage appellant claimed was \$647.28, not \$803.52. The per diem rate for hotel stays in Phoenix, Arizona was \$62.00 from May 1 through August 31, 1999, and that appellant was paid \$62.00 a night for four nights for a total of \$248.00. The per diem rate for food in Phoenix, Arizona for the same time period was \$38.00, and therefore four full days at \$38.00 a day totaled \$152.00. The Office stated that $\frac{3}{4}$ of the per diem for the travel days, May 23, 1999 and June 22, 1999, totaled \$57.00 ($\frac{3}{4} \times \38.00×2). The Office stated that appellant had a \$2.00 per day for an unknown charge, which it would not pay. The Office added the mileage, \$647.28, lodging, \$248.00, food for four full days, \$152.00 and food for two travel days, \$57.00, to obtain a total of \$1,104.28.

The Board finds that the Office acted within its discretion in determining that appellant's lodging, food and mileage for May 23 through 25, 1999 and from June 20 through 22, 1999 for travel expenses, totaled \$1,104.28 and in denying payment for an attendant's allowance and other expenses.

In explaining its calculation of appellant's travel expenses in the amount of \$1,104.28, the Office properly determined that appellant's total mileage of \$156.24, \$165.85, \$158.41 and \$166.78, totaled \$647.28, that appellant's per diem hotel rate of \$62.00 for four days totaled \$248.00, that the per diem rate for food per full day of \$38.00 for four days totaled \$152.00, and that the $\frac{3}{4}$ per diem rate for food for the two travel days totaled \$57.00 ($\frac{3}{4} \times \38.00×2).

The Board has held that an attendant's allowance is appropriate when a claimant is so helpless that he is in need of constant care, as in being totally blind or being paralyzed and unable to walk.¹ An attendant's allowance is not intended to pay an attendant for domestic and housekeeping chores such as cooking, cleaning, doing the laundry or providing transportation.² In this case, there is no medical evidence that appellant is unable to care for himself or that his accepted skin condition has rendered him unable to drive. His personal decision to have his daughter accompany him to Phoenix for medical treatment is insufficient to entitle him to an allowance for this service.

The Office properly determined that appellant was not entitled to reimbursement for telephone calls, fax service and certified-mail expenses made during the trip. Section 10.401(a) provides in part that a claimant is "entitled to reimbursement of reasonable and necessary expenses, including transportation incident to obtaining authorized medical services, appliances or supplies."³ The Board has held that incidental expenses are allowable only when incurred in the course of securing medical services and supplies.⁴ The telephone calls, fax service and

¹ *Bonnie M. Schreiber*, 46 ECAB 989, 991 (1995).

² *Id.*

³ 20 C.F.R. § 10.401(a).

⁴ *James R. Bell*, 49 ECAB 642, 645 (1998).

certified-mail expense in this case were not part of the process of securing medical services and supplies.

The June 30, 1999 decision of the Office of Workers' Compensation Programs is affirmed.⁵

Dated, Washington, DC
August 7, 2001

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member

⁵ Upon return of the case record, the Office should determine whether appellant was reimbursed for the \$284.18 he claimed for prescriptions.